

KEMP & KEMP
ATTORNEYS AT LAW
7435 W. Azure Drive, Suite 110
LAS VEGAS, NEVADA 89130
Tel. (702) 258-1183 • Fax (702) 258-6983

JAMES P. KEMP, ESQ.
Nevada Bar No.: 6375
VICTORIA L. NEAL, ESQ.
Nevada Bar No.: 13382
KEMP & KEMP
7435 W. Azure Drive, Suite 110
Las Vegas, Nevada 89130
Ph. (702) 258-1183 / Fax (702) 258-6983
jp@kemp-attorneys.com
vneal@kemp-attorneys.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM SOTO,

Plaintiff,

vs.

ARIA RESORT & CASINO, LLC, a Domestic
Limited Liability Company; MELANIE
SALJOUGUI, an individual; YONG HOON
LEE, an individual; JERALD HEDRICK, an
individual; ROBERT FISHBOURNE; an
individual; TODD OWEN, an individual; and,
PHILIPPE ROUAS, an individual,

Defendants.

Case No.: 2:16-CV-00064-JAD-PAL

PLAINTIFF'S EX PARTE MOTION
TO EXTEND TIME TO SERVE
SUMMONS AND SECOND
AMENDED COMPLAINT ON
DEFENDANT PHILIPPE ROUSA

[FIRST REQUEST]

COMES NOW PLAINTIFF by and through his counsel of record, Kemp and Kemp, and pursuant to FRCP Rules 4 and 6 hereby moves the Court for an Order extending time to serve process on Defendant Philippe Rouas for a period of 60 days, through and including October 21, 2016. This Motion is made upon the papers and pleadings set forth herein and attached hereto.

...

...

...

The request for an extension of time is made in good faith and not for purposes of delay.

Dated this 22nd day of August, 2016.

/s/ Victoria L. Neal
JAMES P. KEMP, ESQUIRE
VICTORIA L. NEAL, ESQUIRE
KEMP & KEMP, ATTORNEYS AT LAW
7435 W. Azure Drive, Suite 110,
Las Vegas, NV 89130
Attorneys for Plaintiff

POINTS AND AUTHORITIES

I. INTRODUCTION

This case was filed on January 13, 2016. Plaintiff's Second¹ Amended Complaint was filed on May 24, 2016, after the Court granted Plaintiff leave to amend on May 2, 2016. (EFC No. 55). Defendant Philippe Rousa was added as a party at that time. All Defendants except for Defendant Philippe Rousa have been served with process.

II. ARGUMENT

A. Good cause exists to grant Plaintiff's Motion to Extend Time for Service on Defendant Philippe Rousa.

Federal Rules of Civil Procedure (FRCP) Rule 6(b) provides in relevant part:

- (1) In General: When an act may or must be done within a specified time, the court may, for good cause, extend time: (A) with to without motion or notice if the court acts, or is a request is made.

Fed. R. Civ. P. 6.

Furthermore, the Rule which governs the time limit for service in Federal Court says "[if] a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court

¹ The Second Amended Complaint was incorrectly designated as the First Amended Complaint.

1 must extend the time for service for an appropriate period. Fed. R. Civ. P. 4(m). This Rule “require[s] a
2 court to extend time if good cause is shown and ... allow[s] a court discretion to dismiss or extend time
3 absent a showing of good cause.” *Matasareanu v. Williams*, 183 F.R.D. 242, 245 (C.D. Cal. 1998), citing
4 *Petrucelli v. Bohringer and Ratzinger, GMBH Ausdereitungsanlagen*, 46 F.3d 1298, 1305 (3d Cir.1995).

5 Here, good cause exists to allow Plaintiff additional time for service because Plaintiff has
6 diligently attempted to locate Defendant Philippe Rousa, but has not been able to affect service as of this
7 date. Defendant Saljougui and Aria Defendants have been less than forthcoming with contact information
8 for Defendant Philippe Rousa including Defendant Saljougui claiming to not know his last name and,
9 although having telephone contact with him, could not identify his phone number.

11 According to Defendant Saljougui’s testimony, it was Defendant Philippe Rousa who originally
12 made contact with Defendant Aria and its security personnel to report Plaintiff’s alleged extortion of
13 Defendant Saljougui and included Defendant Philippe Rousa providing a telephone recording made by
14 Defendant Saljougui to Defendant Aria and speaking on her behalf. (Ex. 1, Declaration of Victoria L.
15 Neal, ¶ 5).

17 Defendant Aria only identifies Defendant Philippe Rousa in a security report as “a guest.” (**ECF**
18 **No. 44-1**). *Id.* at ¶ 6. During her deposition, Defendant Saljougui described Defendant Philippe Rousa
19 as a “resident” at the Aria. *Id.* According to a recording made by Defendants Hedrick and Hoon Lee
20 when interviewing Defendant Saljougui, Defendant Philippe Rousa is well known to Aria upper
21 management including Defendant Hedrick working with Defendant Philippe Rousa on other issues and
22 Defendant Hedrick’s bosses having numerous dealings with Defendant Philippe Rousa². *Id.* In addition,
23 it was Defendant Philippe Rousa who called to make sure Aria security met with Defendant Saljougui, as
24 well as Defendant Hedrick meeting with Defendant Philippe Rousa after the interview. *Id.* Furthermore,
25

27 ² This recording was disclosed by Defendant Aria and marked for identification purposes as Aria 154 and 155. In
28 addition, this recording was disclosed by Plaintiff as part of his DETR filed obtained via subpoena.

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1 Defendant Hedrick said his boss would be reaching out to Defendant Philippe Rousa about the incident.
2 Id.

3 Defendant Aria has also been less than forthcoming with information about their resident guest,
4 Defendant Philippe Rousa even though he is obviously a witness critical to their defense in this matter.
5 Id. at ¶ 7. To date Defendant Aria has not disclosed Defendant Philippe Rousa in their initial disclosures
6 in this matter. In Plaintiff's meet and confer letter to Defendant Aria dated May 24, 2016, Plaintiff asked
7 Defendant Aria to disclose Defendant Philippe Rousa's contact information. Id. On May 31, 2016,
8 counsel met and conferred on Defendant Aria's deficient discovery responses. Id. At that time, it was
9 requested that Defendant Aria amend its initial disclosures to include, among other information,
10 Defendant Philippe Rousa's contact information. Id. On July 27, 2016, again contacted Defendant Aria
11 for Defendant Philippe Rousa's contact information. Id. On July 28, 2016, Defendant Aria provided an
12 address that after further research confirms the address to be that of a UPS store. Defendant Aria did not
13 provide any telephone number for Defendant Philippe Rousa. Id. Plaintiff's research and efforts to locate
14 Defendant Philippe Rousa have likewise led to dead ends and include: (1) searches conducted through
15 the Clark County Assessor to locate property holdings; (2) searches conducted through the Nevada
16 Secretary of State for business associations; (3) searches conduct through Clark County Licensing for
17 business license holdings; (4) searches conducted through various internet sites for locating information
18 about people; (5) searches of local media information; (6) searches of internet articles; and (7) searches of
19 social media. Id at ¶ 4.

22 Defendants obviously have additional contact information for Defendant Philippe Rousa which
23 they have refused to disclose. Plaintiff needs additional time to locate Defendant Philippe Rousa which
24 includes time to employee the services of a skip-tracer and private investigator, as well as obtaining
25 additional information about Defendant Philippe Rousa in upcoming depositions.

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III. CONCLUSION.

Plaintiff respectfully request this Court to issue an Order permitting Plaintiff an additional 60-day period to perfect service of Defendant Philippe Rousa.

DATED this 22nd August, 2016.

/s/ Victoria L. Neal

JAMES P. KEMP, ESQUIRE

Nevada Bar No.: 006375

VICTORIA L. NEAL, ESQUIRE

Nevada Bar No.: 13382

KEMP & KEMP, ATTORNEYS AT LAW

7435 W. Azure Drive, Suite 110,

Las Vegas, NV 89130

Attorneys for Plaintiff William Soto

ORDER

IT IS SO ORDERED:

Dated this 23 day of August, 2016.


UNITED STATES MAGISTRATE JUDGE LEEN

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date indicated below, a copy of the foregoing motion was served on the following as indicated:

All Parties Registered
Through the CM/ECF system.

Dated this 22nd day of August, 2016.

/s/ Victoria L. Neal

An employee of KEMP & KEMP, Attorneys at Law

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EXHIBIT INDEX

1. DECLARATION OF VICTORIA L. NEAL

JAMES P. KEMP, ESQ.
Nevada Bar No.: 6375
VICTORIA L. NEAL, ESQ.
Nevada Bar No.: 13382
KEMP & KEMP
7435 W. Azure Drive, Suite 110
Las Vegas, Nevada 89130
Ph. (702) 258-1183 / Fax (702) 258-6983
jp@kemp-attorneys.com
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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
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WILLIAM SOTO,

Plaintiff,

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Case No.: 2:16-CV-00064-JAD-PAL

DECLARATION VICTORIA L. NEAL

ARIA RESORT & CASINO, LLC, a Domestic
Limited Liability Company; MELANIE
SALJOUGUI, an individual; YONG HOON
LEE, an individual; JERALD HEDRICK, an
individual; ROBERT FISHBOURNE; an
individual; TODD OWEN, an individual; and,
PHILIPPE ROUAS, an individual,

Defendants.

COMES NOW VICTORIA L. NEAL, ESQ., and hereby declares under penalty of perjury as follows:

1. I am a resident of Clark County, Nevada, and over the age of eighteen (18) years of age.
2. I am an attorney duly licensed to practice before all courts within the State of Nevada, including the United States District Court for the District of Nevada. I am counsel of record for Plaintiff, William Soto.

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1 3. I make this declaration of my own personal knowledge and each assertion contained herein
2 is true and correct to the best of my knowledge, except those assertions made upon information and
3 belief, and as to those assertions, I believe them to be true. If called to testify to the matters
4 contained in this declaration, I would competently testify to the same.

5 4. Plaintiff's counsel has diligently tried to locate Defendant Philippe Rousa including: (1)
6 searches conducted through the Clark County Assessor to locate property holdings; (2) searches
7 conducted through the Nevada Secretary of State for business associations; (3) searches conduct
8 through Clark County Licensing for business license holdings; (4) searches conducted through
9 various internet sites for locating information about people; (5) searches of local media information;
10 (6) searches of internet articles; and (7) searches of social media.

11 5. According to Defendant Saljougui's testimony, it was Defendant Philippe Rousa who
12 originally made contact with Defendant Aria and its security personnel to report Plaintiff's alleged
13 extortion of Defendant Saljougui and included Defendant Philippe Rousa providing a telephone recording
14 made by Defendant Saljougui to Defendant Aria and speaking on her behalf.

15 6. Defendant Aria only identifies Defendant Philippe Rousa in a security report as "a guest."
16 (ECF No. 44-1). During her deposition, Defendant Saljougui described Defendant Philippe Rousa as a
17 "resident" at the Aria. According to a recording made by Defendant Hedrick and Hoon Lee when
18 interviewing Defendant Saljougui, Defendant Philippe Rousa is well known to Aria upper management
19 including Defendant Hedrick working with Defendant Philippe Rousa on other issues and Defendant
20 Hedrick's bosses having numerous dealings with Defendant Philippe Rousa¹. In addition, it was
21 Defendant Philippe Rousa who called to make sure Aria security met with Defendant Saljougui, as well as
22 Defendant Hedrick meeting with Defendant Philippe Rousa after the interview. Furthermore, Defendant
23 Hedrick said his boss would be reaching out to Defendant Philippe Rousa about the incident.

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1 This recording was disclosed by Defendant Aria and marked for identification purposes as Aria 154 and 155. In

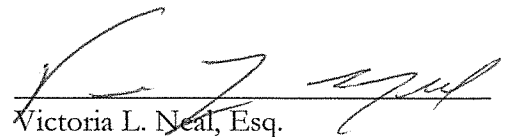
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7. Defendant Aria has also been less than forthcoming with information about their resident guest, Defendant Philippe Rousa even though he is obviously a witness critical to their defense in this matter. To date Defendant Aria has not disclosed Defendant Philippe Rousa in their initial disclosures in this matter. In Plaintiff's meet and confer letter to Defendant Aria dated May 24, 2016, Plaintiff asked Defendant Aria to disclose Defendant Philippe Rousa's contact information.. On May 31, 2016, counsel met and conferred on Defendant Aria's deficient discovery responses. At that time, it was requested that Defendant Aria amend its initial disclosures to include, among other information, Defendant Philippe Rousa's contact information. On July 27, 2016, again contacted Defendant Aria for Defendant Philippe Rousa's contact information. On July 28, 2016, Defendant Aria provided an address that after further research confirms the address to be that of a UPS store. Defendant Aria did not provide any telephone number for Defendant Philippe Rousa. Plaintiff's research and efforts to locate Defendant Philippe Rousa has likewise led to dead ends including research of property records, Clark County business licenses and the Nevada State Secretary of State records. Plaintiff may be forced to file a motion to compel to obtain information necessary to serve Defendant Philippe Rousa.

8. Defendant Philippe Rousa is believed to be a French national who has extensive business ties in Las Vegas and with business man Norbert Aleman previous owner of Crazy Girls Burlesque Show. In addition, upon information and belief, Defendant Philippe Rousa is a semi-professional poker player playing in local tournament and at one time hosted his own poker tournament in Las Vegas.

FURTHER, THE DECLARANT SAYETH NAUGHT.

DATED this 22nd day of August, 2016.


Victoria L. Neal, Esq.
Nevada Bar No.: 13382
KEMP & KEMP
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in addition, this recording was disclosed by Plaintiff as part of his DETR filed obtained via subpoena.